



United States Environmental Protection Agency
Regional Administrator
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

MAR 15 2016

Ms. Lisa Bonnett
Director, Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Dear Ms. Bonnett:

I write to inform you that the U.S. Environmental Protection Agency is concerned about the delay in reimbursement of Illinois' Underground Storage Tank (UST) Fund (the UST Fund) and the long term operation of the UST Fund. EPA is also concerned that the UST Fund may no longer be serving as an acceptable financial responsibility (FR) mechanism for Illinois UST owners and operators because of the lack of a State budget.

I understand the difficulty that the IEPA is facing because of State budget issues. I also understand that neither IEPA nor the comptroller can currently legally reimburse remediation costs from the UST Fund. However, because the State is not issuing reimbursements for leaking underground storage tank (LUST) cleanup work, we request the Illinois Environmental Protection Agency to submit a plan to EPA within 30 days of receipt of this letter for obtaining authority for the State comptroller to issue reimbursement payments.

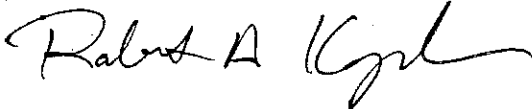
The UST Fund serves as a FR mechanism for tank owners and operators to ensure the availability of funds to clean up releases from regulated tanks. The State budget impasse has impacted the UST Fund by halting reimbursements for remediation of LUST sites for the past eight months. This adversely impacts the UST Fund's fulfillment of the federal FR requirement for UST owner/operators. It also compromises the financial viability of the cleanup contractors that are critical to ongoing LUST cleanups. EPA's UST staff has expressed these concerns to your UST staff. EPA also expressed concern when \$20 million from the UST Fund was redirected to other non-LUST purposes during 2015.

Should the State continue to fail to issue reimbursement payments, EPA will consider withdrawing the approval of the State's UST Fund. In the event of financial deficiencies in a state UST Fund, the Underground Storage Tank Compliance Act of 2005 (Title XV, Subtitle B of the Energy Policy Act of 2005, 42 U.S.C. § 6991c(c)(6)) provides the EPA Administrator with the authority to withdraw approval of state assurance funds as a FR mechanism. If EPA withdraws this approval, the State must notify UST owners and operators that the State UST Fund no longer fulfills the federal FR requirement and owners and operators are required to obtain alternative means for complying with the federal FR rules. UST owners and operators would then need to secure another EPA-approved FR mechanism (such as private insurance, surety bond, self-insurance, etc.) in order to meet the federal UST FR regulations. Those private

FR mechanisms will, of course, not cover past releases. However, the State will remain responsible for financing UST release cleanup work that occurred before the date on which the EPA finds the state fund is no longer an acceptable federal FR mechanism.

Thank you for your attention to this matter. If you would like to discuss this matter further or need additional information, please feel free to contact me or have a member of your staff contact Sherry Kamke of EPA Region 5's UST Section at (312) 353-5794.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Kaplan", with a stylized flourish at the end.

Robert A. Kaplan
Acting Regional Administrator